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United States Government Accountability Office  
Washington, DC 20548

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December 21, 2004

The Honorable John Dingell  
Committee on Energy and Commerce  
House of Representatives

Subject: SEC and CFTC Fines and Disgorgement Collections Follow-Up

Dear Mr. Dingell:

This letter confirms our commitment to a follow-up study of SEC and CFTC's Fines and Disgorgement Collections. In our October 4, 2004 letter to you, we outlined our approach to designing the study. Based on that design and discussions with your staff on October 20, 2004, we will complete our work and issue a report to you by July 15, 2005. The enclosure to this letter sets forth the key aspects of the study.

We look forward to working with you and your staff on this assignment. Should you have any questions, please contact me on (202) 512-8678 or, Karen Tremba, Assistant Director, on (202) 512-3113.

Sincerely yours,

Richard Hillman  
Director, Financial Markets  
and Community Investment

cc: Consuela Washington

Enclosure

List of Requesters

The Honorable John Dingell  
Committee on Energy and Commerce  
House of Representatives

The Honorable Paul E. Kanjorski  
Subcommittee on Capital Markets, Insurance  
and Government Sponsored Enterprises  
Committee on Financial Services  
House of Representatives

The Honorable Barney Frank  
Ranking Member, Committee on Financial Services  
House of Representatives

# Terms of the Work

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## Objectives/Key Questions

In four previous GAO reports regarding the Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC), we made recommendations in order to enhance their oversight, collection, and management of fines and disgorgements. In this engagement, GAO will follow-up on the status of SEC's and CFTC's actions, and assess the extent to which SEC has implemented Section 308 of the Sarbanes-Oxley Act of 2002. Specifically, we will:

1. Assess SEC's and CFTC's capability to effectively track and manage fines and disgorgement data;
2. Assess SEC's and CFTC's status in addressing previous GAO recommendations, and evaluate the effectiveness of their actions, and;
3. Assess the impact of Section 308 of the Sarbanes Oxley Act (i.e. Fair Funds) on SEC's ability to return more money to harmed investors and the impact on harmed investors' ability to pursue litigation.

## Scope

To assess SEC's and CFTC's various efforts to address our recommendations, we will conduct our work at SEC's and CFTC's headquarters in Washington, D.C., and SEC's field offices. We will focus on SEC and CFTC's management information systems, collection programs, and SEC's Fair Funds program.

## Methodology

To address these issues, we will leverage work that our Financial Management & Assurance and Information Technology teams have completed as part of the review of SEC's financial statements. We will also review enhancements made to SEC's management information systems for tracking fines and disgorgements, by obtaining testimonial evidence, observing operations, and reviewing pertinent documents. Additionally, we will interview relevant SEC and CFTC officials and staff on the steps they have taken to address our previous recommendations. We will review case files for documentation, accuracy, and completeness for SEC's collections program efforts. Further, we will review SEC's and CFTC's new or revised policies and procedures related to their collection programs and assess the effectiveness of those actions. Also, we will review SEC's relevant documents and data to assess the effectiveness of Section 308 of the Sarbanes-Oxley Act, and discuss

implementation with agency officials. Our work will be done in accordance with Generally Accepted Government Auditing Standards (GAGAS).

### **Product Type**

We will issue a letter report. In addition, we will obtain comments from SEC and CFTC on a written draft of this product prior to issuance.

### **Product Delivery Date(s)**

We will issue a report by July 15, 2005.

### **Reporting on Job Status**

We will keep our requester and stakeholders informed of the status and progress of the job through periodic briefings and other discussions.